



PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

[Notice-PCLOB-2013-01; Docket No. 2013-0004; Sequence No. 1]

No FEAR Act Notice; Notice of Rights and Protections Available Under Federal Antidiscrimination and Whistleblower Protection Laws

AGENCY: Privacy and Civil Liberties Oversight Board.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, the Privacy and Civil Liberties Oversight Board is providing notice to its employees, former employees, and applicants for Board employment about the rights and remedies available to them under the federal anti-discrimination, whistleblower protection, and retaliation laws.

FOR FURTHER INFORMATION CONTACT: Claire McKenna, Legal Counsel, at 202-366-0365 or claire.mckenna.pclob@dot.gov.

SUPPLEMENTARY INFORMATION:

On May 15, 2002, Congress enacted the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, Pub. L. 107-174, also known as the No FEAR Act. The

Act requires that federal agencies provide notice to their employees, former employees, and applicants for employment to inform them of the rights and protections available under federal anti-discrimination, whistleblower protection, and retaliation laws.

Anti-discrimination laws

A federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions, or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status, or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. 2302(b)(1), 29 U.S.C. 206(d), 29 U.S.C. 631, 29 U.S.C. 633a, 2 U.S.C. 791, and 42 U.S.C. 2000e-16.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin, or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with your agency. This timeline may be extended by the Board under

the circumstances described in 29 CFR 1614.105(a)(2). If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (see contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through the Board's administrative or negotiated grievance procedures, if such procedures apply and are available.

Whistleblower Protection Laws

A federal employee with authority to take, direct others to take, recommend, or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule, or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or

safety, unless disclosures of such information is specifically prohibited by law and such information is specifically required by executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with the U.S. Office of Special Counsel at 1730 M Street, NW, Suite 218, Washington, DC 20036-4505 or online through the OSC website, <http://www.osc.gov>.

Retaliation for Engaging in Protected Activity

A federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the federal antidiscrimination or whistleblower protection laws listed above. If you believe that you are the victim or retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws section or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

Disciplinary Actions

Under existing laws, each agency retains the right, where appropriate, to discipline a federal employee for conduct that is inconsistent with the Federal Antidiscrimination and Whistleblower Protection Laws up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, agencies must seek approval from OSC to discipline employees for, among other activities, engaging in prohibited retaliation, 5 U.S.C. 1214(f). Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a federal employee or to violate the procedural rights of a federal employee who has been accused of discrimination.

Additional Information

For further information regarding the No FEAR Act regulations, refer to 5 CFR 724, as well as the appropriate Board offices. Additional information regarding federal antidiscrimination laws can be found at the EEOC website, <http://www.eeoc.gov>, and the OSC website, <http://www.osc.gov>.

Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the No FEAR Act nor this notice creates, expands, or

reduces any rights otherwise available to any employee,
former employee, or applicant under the laws of the United
States, including the provisions of law specified in 5
U.S.C. 2302(d).

Dated: February 21, 2013.

Claire McKenna,
Legal Counsel,
Privacy and Civil Liberties Oversight Board.

[BILLING CODE 6820-B3]

[FR Doc. 2013-04467 Filed 02/25/2013 at 8:45 am;
Publication Date: 02/26/2013]